

his Complaint was not fully exhausted. (Doc. No. 18). The Court directed that Plaintiff comply with the Court's Order within twenty (20 days). On March 16, 2011, Plaintiff filed a Motion for the Appointment of Counsel. (Doc. No. 20). The Court denied Plaintiff's motion and specifically reminded Plaintiff that pursuant to this Court's March 3, 2011, he is required to identify which one of the claims in his Complaint was not exhausted. (Doc. No. 21). Plaintiff filed a Notice of Appeal of this Court's Order denying him counsel, but failed to file a document responsive to the Court's March 3, 2011 and March 23, 2011 Orders. By Order dated June 1, 2011, the undersigned dismissed Plaintiff's Complaint for failure to obey a court order pursuant to Federal Rule of Civil Procedure 41(b). (Doc. No. 28).

Because the Court has already dismissed Plaintiff's Complaint for failure to obey a Court Order, the Court cannot now allow Petitioner to voluntarily dismiss his case. Indeed, Plaintiff's case is now closed and the Court is without jurisdiction to order the relief Plaintiff has requested. However, Petitioner has also requested that his motion be construed as a Notice of Appeal if this Court was unable to grant his request for a voluntary dismissal. Therefore, Petitioner's motion will be construed as a Notice of Appeal.

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's filing captioned as a "Motion for Juror Trial" (Doc. No. 30) be construed as a Notice of Appeal and forwarded to the Fourth Circuit Court of Appeals for consideration.

SO ORDERED.

Signed: June 27, 2011

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

